

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEVADA JOINT UNION HIGH SCHOOL
DISTRICT AND CALIFORNIA
DEPARTMENT OF SOCIAL SERVICES.

OAH Case No. 2016050869

ORDER GRANTING CALIFORNIA
DEPARTMENT OF SOCIAL
SERVICES' MOTION TO DISMISS

On May 13, 2016, Student filed a complaint alleging that Nevada Joint Union High School District denied her a free appropriate public education for failing to provide an appropriate placement. Student also alleged that California Department of Education and California Department of Social Services denied her a FAPE by failing to ensure that appropriate residential treatment facilities are available in California for individuals between 18 and 22 years of age who are eligible for special education services. Student sought to have OAH order that CDE and CDSS develop residential treatment centers in California.

On May 24, 2016, CDE filed a motion to be dismissed as a party asserting that it is a state education agency and has only “general oversight responsibility” rather than being responsible for providing Student a FAPE. OAH granted CDE’s request on June 1, 2016.

On June 14, 2016, CDSS filed this motion to be dismissed as a party, asserting that: (1) there is no dispute that Nevada Joint Union High School District is the local educational agency; (2) CDSS is an agency with no statutory commitments under the Individuals with Disabilities Act to provide a FAPE; (3) CDSS is not an educational agency; and (4) CDSS cannot provide Student the relief she seeks.

On June 16, 2016, Student filed an opposition to CDSS’s motion, alleging CDSS is a necessary party because California residential placement facilities are licensed by CDSS. Therefore, Student contends CDSS is responsible for ensuring that appropriate residential placements exist in California. Student further contends that by failing to license residential placements for students between the ages of 18 and 22, CDSS limited Student’s educational placement options, thereby becoming involved in Student’s IEP process.

On June 21, 2016, CDSS filed a reply to Student’s opposition, alleging Student seeks to hold CDSS indirectly accountable for providing a FAPE without proffering any facts or legal authority establishing CDSS has a statutory obligation to provide a FAPE under the IDEA.

APPLICABLE LAW AND DISCUSSION

Parents have the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); see also Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) OAH may dismiss a matter in its entirety, or one or more claims, where it is evident from the face of the complaint that the alleged issues fall outside of OAH jurisdiction or the pleaded facts cannot sustain a claim. Such circumstances may include, among other things, complaints that assert claims against an entity that cannot be legally responsible for providing special education or related services under the facts alleged.

Special education due process hearing procedures extend to the parent or guardian, to the student under certain conditions, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) The “public agency” may be “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

California law places the primary responsibility for providing special education to eligible children on the local education agency, usually the school district in which the parents of the child reside. (See, e.g., Ed. Code §§ 56300, 56340 [describing local educational agency responsibilities].) The law also contemplates that, when a parent disputes the educational services provided to the special needs child, the proper respondent to the due process hearing request is the local education agency. (See, e.g., Ed. Code, 56502, subd. (d)(2)(B) [local education agency’s response to due process complaint].) Only in unusual circumstances does California law deviate from that statutory scheme to require a different entity to provide those services.

The allegations in the complaint make it clear that CDSS did not provide any educational services to Student and that it was not involved in decisions regarding Student. Nevada’s responsibility as the local education agency is undisputed. Instead, Student relies upon CDSS’s state licensing authority as the basis for its claim. By statutory definition, CDSS does not qualify as a “public agency” agency responsible for ensuring compliance with the IDEA. (Ed. Code, §§ 56500 and 56028.5.)

Student’s claims against CDSS are beyond the jurisdiction of OAH in this due process case. Student has not provided a legal nexus between the IDEA and CDSS. OAH has no jurisdiction to order the type of statewide policy changes Student seeks such as ordering CDSS to create in-state placements for students over the age of 18. Student’s requested remedy against CDSS seeks systemic statewide licensing of residential placement facilities. Complaints for such structural and systemic relief are beyond the jurisdiction of OAH. Accordingly, CDSS’s motion to dismiss is granted.

ORDER

1. California Department of Social Services' Motion to Dismiss is granted.
2. California Department of Social Services is dismissed as a party in the above-entitled matter. Matter shall proceed only as to Nevada Joint Union High School District.

DATE: June 24, 2016

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Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings